

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
COLUMBIA DIVISION

Robert Fletcher Herbert,	)	C/A NO. 3:12-2621-CMC-PJG
	)	
Plaintiff,	)	
	)	<b>OPINION and ORDER</b>
v.	)	
	)	
Michael L. Gooding, 0257; and Det. Brian	)	
Smith;	)	
	)	
Defendants.	)	
	)	

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This matter is before the court on Plaintiff's *pro se* complaint, filed in this court pursuant to 42 U.S.C. § 1983.

In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 (B)(2)(d), DSC, this matter was referred to United States Magistrate Judge Paige J. Gossett for pre-trial proceedings and a Report and Recommendation ("Report"). On June 20, 2013, the Magistrate Judge issued a Report recommending that Defendants' motion for summary judgment be granted and that other pending motions filed by Plaintiff be terminated. The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. On June 27, 2013, Plaintiff filed a multi-page document which cites all of Plaintiff's pending and closed cases,<sup>1</sup> and which seeks relief on a variety of matters. As relates to this matter, Plaintiff

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<sup>1</sup>Since November 2012, Plaintiff has filed seven (7) civil actions in this Court: *Herbert v. Gooding, et al.*, DSC Civil Action No. 3:12-2621-CMC-PJG; *Herbert v. WLTX News, et al.*, DSC Civil Action No. 3:12-3485-CMC-PJG (dismissed without prejudice on 3/25/13); *Herbert v. Treaster, et al.*, DSC Civil Action No. 3:13-262-CMC-PJG; *Herbert v. State of South Carolina, et al.*, DSC Civil Action No. 3:13-453-CMC-PJG (dismissed with prejudice and counted as strike under 28 U.S.C. § 1915(g) on 5/21/13); *Herbert v. Weed*, DSC Civil Action No. 3:13-1343-CMC-

seeks an extension of time “on the judgement [sic].” Mot. at 1 (ECF No. 104).<sup>2</sup> Additionally, Plaintiff seeks to amend his complaint to sue “each officer in [his] individual and official capacity (under the tort claims act)[.]” *Id.* Finally, as relates to this case, Plaintiff contends his “speedy trial rights” have been violated by the various rulings of the Magistrate Judge to whom this matter was assigned, and that he wants to “appeal” this case. *Id.* at 3.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court.

*See Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b).

After conducting a *de novo* review as to the objections made, and considering the record, the applicable law, the Report and Recommendation of the Magistrate Judge, and Plaintiff’s “objections,” the court agrees with the conclusions of the Magistrate Judge. Accordingly, the court adopts and incorporates the Report and Recommendation by reference in this Order.

Throughout Plaintiff’s filing, he contends that his “speedy trial rights” have been violated and that the Report’s alleged failure to find perjury in the Defendants’ submissions in support of summary judgment is based upon judicial bias and racial prejudice. These assertions are frivolous

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PJG; *Herbert v. Prestigiacomo*, DSC Civil Action No. 3:13-1354-CMC-PJG; and *Herbert v. Stoudemire*, DSC Civil Action No. 3:13-1570-CMC-PJG.

<sup>2</sup>This document was filed separately in all the civil actions listed in note 1, receiving a separate document number in each case.

and without merit.<sup>3</sup>

Additionally, Plaintiff's request for additional time "on the judgement [sic]" is **denied**. Plaintiff received a copy of the Report, and has responded to it, albeit in a rambling and incoherent manner.

Defendants' motion for summary judgment is **granted**. Plaintiff's other pending motions in this matter are **denied**, and this matter is dismissed with prejudice.

**IT IS SO ORDERED.**

s/ Cameron McGowan Currie  
CAMERON McGOWAN CURRIE  
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina  
July 2, 2013

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<sup>3</sup>The Speedy Trial Act, 18 U.S.C. § 3161, *et seq.* applies to criminal defendants' rights to be brought to trial in criminal cases brought in the United States District Court. It does not apply to civil actions.